

REMARKS

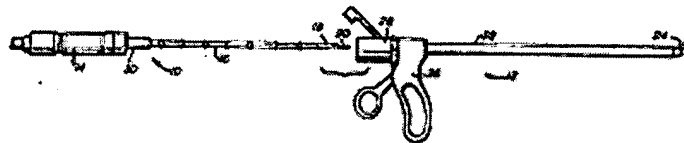
Claims 1-20 are pending in this application. By this amendment, Claim 14 has been amended. In view of the remarks to follow, reconsideration and allowance of Claims 1-20 are respectfully requested.

In the Office Action mailed October 18, 2004, Claims 1-5, 8, 9 and 11-16 were rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 5,322,055 to Davison et al. ("Davison '055 patent") in view of U.S. Patent No. 5,447,513 to Davison et al. ("Davison '513 patent"). In the Office Action, the Examiner states that "Davison et al '055 shows an ultrasonic instrument system which is basically the same as that recited in Claims 1-5, 8, 9 and 11-16" but that Davison et al. '055 fails to specifically disclose a trocar assembly. The examiner states further that "FIG. 2 of Davison et al. '513 teaches a trocar used in combination with an elongated surgical instrument." The examiner concludes that it would have been obvious to one of ordinary skill in the art to use the Davison et al. '055 instrument in combination with a trocar as taught by Davison et al. '513.

Claim 1 recites a system for performing ultrasonic surgical procedures comprising a trocar assembly and an ultrasonic instrument including a housing, an elongated body portion, and a jaw assembly supported adjacent a distal end of the elongated body portion. Claim 1 further recites that "the housing being configured to removably receive an ultrasonic transducer".

The '055 Davison patent discloses an apparatus including an ultrasonic surgical instrument 10 and a separate clamp coagulator accessory 12 (Column 7, lines 31-35). See FIG. 1 reproduced below. Ultrasonic instrument 10 includes a housing 14 that houses a transducer

(Column 7, lines 36-40). Clamp coagulator accessory 12 includes a clamp assembly mount 28 for connecting instrument 10 to clamp coagulator accessory 12 (Column 7, lines 50-61). In contrast to the ultrasonic instrument recited in Claim 1, the Davison '055 patent does not disclose an instrument having a housing configured to removably receive an ultrasonic transducer. As discussed above, Davison's transducer and housing assembly 14 are inseparable and are assembled with a separate clamp coagulator accessory 12.



The Davison '513 patent discloses an endoscopic ligation and division instrument. The instrument does not include a transducer and was cited by the Examiner merely to illustrate the use of a trocar with a surgical instrument. Thus, the Davison '513 patent does not cure the deficiencies of the Davison '055 patent discussed above.

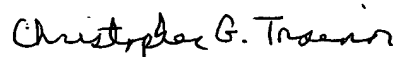
For the reasons discussed above, Claim 1 is in condition for allowance. For at least these same reasons, Claims 2-13 which depend either directly or indirectly from Claim 1 are also in condition for allowance.

Independent Claim 14 has been amended to recite that the actuation member is positioned to slidably engage the clamp to move the clamp between open and clamped positions. Davison fails to disclose this feature. Thus, Claim 14 is in condition for allowance. Claims 15-20 depend from Claim 14 and, for at least the reason discussed above with respect to Claim 14, are also believed to be in condition for allowance.

Appl. No. 10/737,414
Amdt. Dated April 18, 2005
Reply to Office Action of October 18, 2004

In view of the foregoing amendments and remarks, it is respectfully submitted that none of the references of record, considered individually or in combination, in whole or in part, disclose or suggest the present invention as claimed. Therefore, all claims now pending in this application, namely Claims 1-20 are now in condition for allowance. Accordingly, early and favorable reconsideration of this application is respectfully requested. Should the Examiner believe that a telephone or personal interview may facilitate resolution of any remaining matters, he is respectfully requested to contact Applicant's undersigned attorney at the telephone number indicated below.

Respectfully submitted,



Christopher G. Trainor
Reg. No. 39,517
Attorney for Applicant(s)

Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road
Suite 225
Melville, New York 11747
(631) 501-5700
(631) 501-3526 (fax)

Correspondence Address:
Chief Patent Counsel
United States Surgical, a Division
of Tyco Healthcare Group LP
150 Glover Avenue
Norwalk, CT 06856
(203) 845-1000